

FILE COPY

PREET BHARARA
United States Attorney for the
Southern District of New York
By: REBECCA S. TINIO
Assistant United States Attorney
86 Chambers Street
New York, New York 10007
Tel. No.: (212) 637-2774
Fax No.: (212) 637-2702
Email: rebecca.tinio@usdoj.gov

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

KELLY ANN JUNIOR, VICTORIA
OZERSKAYA, ANNA SANCHEZ, JOAN
STAMPER, AND ON BEHALF OF ALL
HOLDERS OF ENHANCED VOUCHERS
SIMILARLY SITUATED IN THE CITY OF
NEW YORK,

Plaintiffs,

v.

THE CITY OF NEW YORK, HOUSING
PRESERVATION AND DEVELOPMENT
CORP., HOUSING URBAN
DEVELOPMENT, HUDSONVIEW
TERRACE, INC., JOHN DOES AND JANE
DOES AS FICTITIOUS AND YET TO BE
IDENTIFIED,

Defendants.

NOTICE OF REMOVAL

12 Civ. _____

from the Supreme Court of the State of
New York, County of New York,
Index No. 102435/2012

NEW YORK
COUNTY CLERK'S OFFICE
MAY 15 2012
NOT COMPARED
WITH COPY FILE

Defendant United States Department of Housing and Urban Development ("HUD"), by its attorney, Preet Bharara, United States Attorney for the Southern District of New York, hereby removes the above-captioned action to the United States District Court for the Southern District of New York. The grounds for removal are as follows:

1. HUD, an agency of the United States, was named as a defendant in a civil action filed in the Supreme Court of the State of New York, County of New York. A true and correct copy of

RECEIVED
2012 MAY 14 P 5:49
U.S. DISTRICT COURT SDNY

the state court complaint with attachments is annexed hereto as Exhibit A.

2. In the complaint, plaintiffs allege that defendant HUD is negligent in its training and supervision of defendants City of New York and Housing and Preservation Development Corp. with regard to their construction and implementation of federal statutes and regulations. *See* Exhibit A ¶ 32. Accordingly, this complaint should be construed as asserting a tort claim pursuant to the Federal Tort Claims Act (“FTCA”), 28 U.S.C. §§ 1346, 2671-2680.

3. Under the FTCA, this action is removable pursuant to 28 U.S.C. § 2679(d)(2). Because plaintiff’s claim against HUD is brought against an agency of the United States, this action may also be removed to this Court pursuant to 28 U.S.C. § 1442(a)(1).

4. Pursuant to 28 U.S.C. § 2679(d), the action is deemed to have been brought against the United States and the United States should be substituted for HUD as the defendant in this action, and this action must be removed to this Court.

5. The trial in this action has not commenced.

6. Accordingly, this action is properly being removed pursuant to 28 U.S.C. §§ 2679(d)(2), 1442(a), and 1446(a).

7. The submission of this notice of removal is solely for the special purpose of removing this action to the appropriate federal court and is not a general appearance by any defendant. This submission does not constitute a waiver of any defense available to the defendant, including any defense under Rule 12 of the Federal Rules of Civil Procedure.

Dated: New York, New York
May 14, 2012

Respectfully submitted,

PREET BHARARA
United States Attorney for the
Southern District of New York

By: 

REBECCA S. TINIO
Assistant United States Attorney
86 Chambers Street
New York, New York 10007
Tel.: (212) 637-2774
Fax: (212) 637-2702

TO: Robert A. Katz, Esq.
277 Broadway, Suite 1410
New York, New York 10007
Attorney for Plaintiffs

Rachel K. Moston
Assistant Corporation Counsel
New York City Law Department
Administrative Law Division
100 Church Street, Room 5-163
New York, New York 10007
*Attorneys for City of New York and Housing
Preservation and Development Corp.*

Levi and Epstein, LLP
99 Union Road
Spring Valley, NY 10977

882 3rd Avenue, 12th Floor
Brooklyn, New York 11232
Attorneys for Hudsonview Terrace, Inc.